

Application No. 10/088,569  
Response Date: December 18, 2006  
Reply to Office Action: July 18, 2006

3

### REMARKS/ARGUMENTS

Petition is hereby made under the provisions of 37 CFR 1.136(a) for an extension of <sup>two</sup> ~~three~~ months of the period for response to the Office Action. Authorization to charge the prescribed fee to our deposit account is enclosed.

The withdrawal of the rejection of claims 12, 17, 18 and 21 to 23 under 35 U.S.C. 112, first paragraph, for failure to comply with the written description requirement is gratefully acknowledged.

The Examiner newly rejected claim 23 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,632,663. Claim 23 has been deleted, thereby obviating the rejection.

The Examiner maintained rejection of claims 22 and 23 under 35 U.S.C., first paragraph, with respect to the enablement. Claims 22 and 23 have been deleted, thereby obviating the rejection.

The Examiner newly rejected claims 12, 17, 18 and 21 under 35 U.S.C., second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

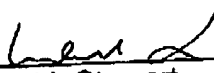
In this regard, the Examiner considered that the term "gene" should be replaced by the term "nucleic acid" in claim 12 and this change has been made. It is submitted that claims 12, 17, 18 and 21 can no longer be considered to be indefinite and hence the rejection thereof under 35 U.S.C. 112, second paragraph, should be withdrawn.

Application No. 10/088,569  
Response Date: December 18, 2006  
Reply to Office Action: July 18, 2006

4

It is believed that this application is now in condition for allowance and early and favourable consideration and allowance are respectfully solicited.

Respectfully submitted,

  
\_\_\_\_\_  
Michael I. Stewart  
Reg. No. 24,973

Toronto, Ontario, Canada,  
(416) 849-8400  
FAX No. (416) 595-1163